GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department – Appeal petition filed by Smt. Kutla Uma W/o Srinivasulu, Occ: Sarpanch, Kovur Grampanchayat, Kovur, SPSR Nellore District, against the proceedings No. D.Dis. No. (C5) (M) 950/2014, dated: 23.06.2015 of the District Collector, SPSR Nellore - under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) - Regulation of Issue of Community Certificates Act, 1993 (AP Act No.16/1993) – Appeal Petition dismissed – Orders - Issued.

TRIBAL WELFARE (CV2) DEPARTMENT

G.O.MS.No. 5 Dated: 11-01-2018
Read the following:

1. Proceedings of the District Collector, SPSR Nellore, .No.D.Dis.(C5)(M) 950/2014, dated: 23.06.2015.
2. Order of the Hon'ble of High Court of A.P., Hyderabad in W.P.No.21229/2015, dated 10.07.2015.
3. Appeal Petition filed by Smt. Kutla Uma W/o Srinivasulu, Occ: Sarpanch, Kovur, Grampanchayat, Kovur, SPSR Nellore District, dated:21.07.2015.
4. Govt. Memo No.5979/CV.2/2015, dated 08.09.2015.
5. From the District Collector, SPSR Nellore, Lr.No.Rc.C5(M)1425/2015, dated: 08.01.2016.
6. Govt. Memo No.5979/CV.2/2015, dated 26.04.2016.
7. Written arguments filed by the Appellant through his Counsel before the Government on 28.05.2016.
8. Govt. Memo No.5979/CV.2/2015, dated 02.06.2017.
9. Written arguments filed by the appellant before the Appellate Authority on 24.06.2017.

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ORDER:

In the reference 1st read above, the District Collector, SPSR Nellore has issued orders canceling the ST – Yanadi Caste Certificate obtained from the then Tahsildar, Kovur n the year 2013 by Smt. Kutla Uma W/o Srinivasulu.

2. In the reference 2nd read above, Smt. Kutla Uma W/o Srinivasulu has field W.P.No.21229/2015 before the Hon'ble High Court of A.P., Hyderabad, against the proceedings of the District Collector, SPSR Nellore dated 23.06.2015. The Hon'ble High Court of A.P., Hyderabad while disposing the said W.P., on 10.07.2015 has ordered that permitting the petitioner to file statutory appeal under the provisions of Section 7 of the Act against the orders of the District Collector issued vide proceedings No.(C5)(M)950/ 2014, dated 23-06-2015 before the State Government. The petitioner herein is also entitled to file a stay application under the provisions of Section 7 (4) of the Act. If any such appeal is filed within the statutory period as stipulated under the Act the Government herein shall consider the same and pass appropriate orders, in accordance with law. Taking into consideration the nature of controversy in the matter, there shall be no coercive action against the petitioner herein pursuant to the impugned proceedings, dated 23-06-2015, pending stay application before the State Government.

3. In the reference 3rd read above, Smt. Kutla Uma W/o Srinivasulu, has filed an Appeal Petition before the Government, against the said Proceedings of the District Collector, SPSR Nellore. After examining the said Appeal Petition, Government have admitted the Appeal Petition as per the directions of the Hon'ble High Court and called for the parawise remarks and connected records from the District Collector, SPSR Nellore in the reference 4th read above.

4. In the reference 5th read above, the District Collector, SPSR Nellore has furnished the Parawise remarks and the connected records on the Appeal Petition filed by Smt. Kutla Uma, W/o Srinivasulu.

[P.T.O]

5. The said Appeal Petition has been posted for hearing on 14.05.2016 & finally on 24.06.2017 and the same has been informed to the Appellant and the Counsel for the Appellant in the references 6th & 8th read above, and they were requested to attend for the hearing along with all Documentary Evidences/ Certificates in support of the community claim, failing which, it will be construed that there is no explanation what-so-ever to furnish in the matter and that the case will be decided based on the material available with the Government. In the references 7th & 9th read above, the appellant has filed written arguments through her Counsel before the Government/ Appellate Authority in support of her ST-Yanadi community claim.

6. After hearing both the sides and on perusal of the records/ the copies of evidences/academic record/ grounds filed by the Appellant/ the parawise remarks submitted by the District Collector, SPSR Nellore and proceedings of the District Collector, SPSR Nellore, dated 23.06.2015, the Appellate Authority has observed that:

I. The appellant in her grounds has stated that she belongs to ST (Yanadi) community and married the person belonging to ST Community only, who is none other than brother-in-law of her own brother. That both are married from the same family, as she married Srinivas and her brother married the said Srinivas's own sister.

II. The District Level Scrutiny Committee is observed that the Tahsildar, Chandarlapadu Mandal has reported that only one Scheduled Tribe family is residing in Bobbillapadu village with the surname of Potluru. Sri Potluru Pothuraju belongs to Yanadi (Scheduled Tribe) community and he left the village 45 years ago on employment purpose. The Appellant has not produced any substantive evidences in support of the relation with Sri Potluru Venkateswarlu and Smt. Ratnamma, who were said to have been her parents. There is no evidence for prove that Potluru Venkateswarlu and Ratnamma are the parents of the appellant. There is no relationship between Potluru Pothuraju and Potluru Venkateswarlu. Further, during the DLSC meeting, the appellant has orally stated that Sri Potluru Pothuraju is brother of her father. As Sri Potluru Pothuraju is an Ex-Serviceman and is belonging to ST, his Discharge Certificate categorically should help the cause of Smt. Kutla Uma if the Ex-Serviceman is brother of her father. But the question – whether Sri Potluru Pothuraju is the brother of her father? remains to be answered. Smt. Kutla Uma has no record on material to place before the Committee to substantiate the claim except for her word that Pothuraju is her uncle. Whether the oral statement is to be accepted and on the strength of it, the caste status shall be decided? She remains silent when asked about his whereabouts. No other person in the world except her, claims him to be her uncle. If any person who is relative, on knowing that his niece/nephew is in problem, he would rush to the rescue and appear on the screen. Just orally saying that "*I know such and such person. He is my relative. His certificate shows that he belongs to Scheduled Tribe. Hence, I also should be considered as Scheduled Tribe*" cannot be accepted. Further in her statement given to Mandal Revenue Inspector, Kovur on 17.07.2013, she stated that Sri Pothuraju is her brother. The statements are contradictory to her oral submission that he is her father's brother. It is clear that there is no iota of clarity in her statements. This material evidence is no evidence at all. Further, Tahsildar, Kovur has issued caste certificates to the individual in a routine manner but not thoroughly verified the caste details of anthropological and ethnological traits, deity, rituals, customs, mode of marriage, death ceremonies/method of burial of dead bodies, earlier birth and death extracts of the blood relatives, details of the family members (Vamsavruksham), school and service record entries of blood relatives, nativity, residence etc., of Smt.Kutla Uma, W/o. Kutla Srinivasulu, Kovur Village and Mandal. According to Sec.6 of the Act 16/1993, the burden of proving that appellant belongs to such Caste, Tribe or Class shall be on the claimant. She has no any further evidences in support of her Scheduled Tribe claim. Finally, based on the findings of the DLSC, the District Collector, SPSR Nellore has cancelled the ST-Yanadi caste certificate of the appellant.

[Contd..on P.3]

III. Under section 6 of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No.16/1993) the burden of proof lies on the Appellant only.

IV. The appellate authority is observed that during the course of arguments the petitioner filed a written argument along with several documents and submitted her arguments. On verification of the written arguments and the documents and the grounds of appeal and Para wise remarks as well as the other documents and material available on the record it is noticed that the appellant submits that she married the person belongs to ST community who is other than the brother-in-law of her own brother and her brother belongs to ST and she also belongs to same caste and further her daughters also belongs to ST and further her uncle's son by name Potluru Pothuraju belongs to ST community as per his discharge certificate and in spite of her documents and certificates of her relatives that all of them are ST and as such she also belongs to ST. That it is also noticed that the lower authority observed the record of the husband of the appellant support caste status of him but not the cast status of appellant and similarly the certificates of her children and further observed the crucial evidence which was support the case of the appellant is the discharge certificate of Potluru Pothuraju who is ex-service man and he belongs to ST and his Certificate help the case of appellant if he is brother of her father but there is no record to show the relationship and further it is noticed that as per the record that he is not at all relatives of the present appellant. As per the complaint of Sri Ch. Ravi Kumar, it is observed that according to Voter's list for the year 2012 of Kovur Constituency, her name was recorded as Yarasi Uma W/o Srinivasulu and her husband also does not belongs to Scheduled Tribe, he belongs to Devanga (BC) community. His father, Sri Yarasi Govindaiah is a well known electrician in the local area and he belongs to Devanga(BC) community, but the wife of Yarasi Govindaiah belongs to Yanadi (ST) community. That as per the act that the burden of proving that the appellant belongs to particular caste shall be on the appellant and it is the responsibility of the appellant to produce necessary evidence and documents to claim the same. In the instant case that the appellant except relaying the evidence and documents filed before the lower authority failed to produce any additional material for re-appreciation of the case on hand. As seen from the record the lower authority passed the order after reasonable appreciating the evidence available on record as per law which deserves no interference. Hence it is apparent that the appeal is devoid of any merits and there is no infirmity either in the findings of the DLSC or the learned District Collector, SPSR Nellore. That taking consideration of the above and the material available on the record that it can be concluded that the lower authority passed the order as per law which does not deserve any interference.

7. In view of the several reasons recorded in the paras supra, the Government, in exercise of the powers conferred under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No16 of 1993), decide that the appeal petition filed by Smt. Kutla Uma, W/o Srinivasulu, does not deserve any interference. Hence, Proceedings of the District Collector, SPSR Nellore issued vide D.Dis. C5(M) 950/2014, dt.23.06.2015 is hereby upheld and the Appeal Petition filed by Smt. Kutla Uma, W/o Srinivasulu, is hereby dismissed and the Certificate issued by the then Tahsildar, Kovur deemed to be cancelled .

8. The District Collector, SPSR Nellore is directed to take necessary consequential action in the matter.

[Contd..on P.4]

9. The records (containing D.Dis. C5(M) 950/2014, pages: CF: 1-431, NF: 1-17) received from the District Collector, SPSR Nellore through in the reference 5th read above, are returned herewith in original to the District Collector SPSR Nellore and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

R.P. SISODIA
PRINCIPAL SECRETARY TO GOVERNMENT

To
The District Collector, SPSR Nellore
(with original records) (BY RPAD)

Smt. Kutla Uma W/o Srinivasulu,
Occ: Sarpanch, Kovur Grampanchayat,
Kovvur, SPSR Nellore District.

Sri B. Chandrasen Reddy, Advocate,
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Basheer Bagh, Hyderabad 500 029.

Sri Gadiraju Ashok Kumar,
S/o Late Sri Dasaratha Ramaiah,
Kovur Grampanchayat,
Kovur, SPSR Nellore District.

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O.U.Road, Vidyanagar, Hyderabad-44.

Copy to:
The Director, TCR& TI, AP, Amaravathi.
The PS to M(SWE& TWE).
The PS to Prl. Secretary(TW).

// FORWARDED:: BY ORDER //

SECTION OFFICER